

SENATE BILL No. 388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-7-2.

Synopsis: Worker's compensation rating bureau. Adds representatives of certain organizations to the worker's compensation rating bureau management.

Effective: July 1, 2004.

Clark

January 12, 2004, read first time and referred to Committee on Pensions and Labor.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 388

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-7-2-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** After July 1, 1935, every
3 insurance company authorized to effect worker's compensation
4 insurance in this state shall be a member of the worker's compensation
5 rating bureau of Indiana. The bureau shall be composed of all insurance
6 companies lawfully engaged on July 1, 1935, wholly or in part in
7 making worker's compensation insurance in Indiana or who shall after
8 July 1, 1935, be issued a certificate of authority to make worker's
9 compensation insurance in this state.

10 **(b) In addition to the members described in subsection (a), every**
11 **organization or entity that meets a description set forth in section**
12 **7(a)(5) through 7(a)(9) of this chapter is a member of the bureau,**
13 **except for purposes of sections 28 through 29 and sections 31**
14 **through 38 of this chapter.**

15 SECTION 2. IC 27-7-2-5 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2004]: Sec. 5. The management of ~~said the~~
17 bureau shall be in the hands of duly elected officers or committees



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provided for in the bylaws of ~~said~~ the bureau. Each:

- (1) member of the bureau; ~~or~~
- (2) member group with affiliate or subsidiary companies; ~~or~~
- (3) organization or entity that meets a description set forth in section 7(a)(5) through 7(a)(9) of this chapter; ~~shall be~~

is entitled to only one (1) vote on any subject coming before the bureau for determination. **However, organizations and entities referred to in subdivision (3) are not entitled to vote on matters arising under sections 28 through 29 and sections 31 through 38 of this chapter.**

SECTION 3. IC 27-7-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~Stock companies and nonstock companies shall be represented in~~ (a) The bureau management and ~~on~~ all committees **must include at least one (1) representative of each of the following:**

- (1) Stock companies.
- (2) Nonstock companies.
- (3) Domestic companies that actively write, issue, and make claims payments in Indiana.
- (4) Foreign companies.
- (5) An insurance trade organization that represents life, health, and property and casualty insurance companies in Indiana.
- (6) An insurance trade organization that represents independent agents and brokers in Indiana.
- (7) An organization that represents large employers of the state.
- (8) An organization that represents independent merchants and small employers of the state.
- (9) Organized labor.

(b) In case of a tie vote in any committee or governing body of ~~said~~ the bureau, the insurance commissioner shall decide the matter.

SECTION 4. IC 27-7-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The bureau shall admit to membership every company lawfully engaged in whole or in part in writing worker's compensation insurance in Indiana.

(b) **In addition to the members described in subsection (a), every organization or entity that meets a description set forth in section 7(a)(5) through 7(a)(9) of this chapter is a member of the bureau, except for purposes of sections 28 through 29 and sections 31 through 38 of this chapter.**

SECTION 5. IC 27-7-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. **This section does**

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1 **not apply to the organizations listed in section 7(a)(5) through**
 2 **7(a)(9) of this chapter.** From and after July 1, 1935, all insurance
 3 companies authorized to effect worker's compensation insurance in this
 4 state, and being members of the worker's compensation rating bureau
 5 of Indiana, shall insure and accept any worker's compensation risk
 6 tendered to and rejected in writing by any three (3) members of the
 7 bureau in the manner provided in this chapter.

8 SECTION 6. IC 27-7-2-29 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. (a) **This section**
 10 **does not apply to organizations and entities described in section**
 11 **7(a)(5) through 7(a)(9) of this chapter.**

12 (b) When any such rejected risk is called to the attention of the
 13 worker's compensation board and it appearing to the board that said
 14 risk is in good faith entitled to coverage, said bureau upon the order of
 15 the board shall fix the initial premium for the coverage.

16 ~~(b)~~ (c) Upon payment, of the premium fixed under subsection ~~(a)~~;
 17 (b), the bureau shall designate a member of said bureau whose duty it
 18 shall be to issue a policy containing the usual and customary provisions
 19 found in such policies therefor. However, for this undertaking all
 20 members of said bureau shall be reinsurers as among themselves in the
 21 amount which the compensation insurance written in this state during
 22 the preceding calendar year by such member bears to the total
 23 compensation insurance written in this state during the preceding year
 24 by all members of said bureau.

25 SECTION 7. IC 27-7-2-32 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 32. **This section does**
 27 **not apply to organizations and entities described in section 7(a)(5)**
 28 **through 7(a)(9) of this chapter.** In designating the bureau member to
 29 insure a rejected risk, the bureau shall have due regard for the service
 30 facilities and compensation premium volume in Indiana of the member
 31 so designated as the carrying company. Any grievance on the part of
 32 such bureau member with the respect of such designation shall be
 33 brought to the attention of the bureau for review and such action as the
 34 circumstances may justify.

35 SECTION 8. IC 27-7-2-34, AS AMENDED BY P.L.202-2001,
 36 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2004]: Sec. 34. **This section does not apply to organizations**
 38 **and entities described in section 7(a)(5) through 7(a)(9) of this**
 39 **chapter.** The management of the bureau shall furnish to all members
 40 of the bureau complete information concerning each rejected risk and
 41 any member of such bureau may write any rejected risk as regular
 42 business in which event the risk so written shall no longer be treated as

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provided for in section 29 of this chapter. If, at expiration, the risk is still uninsured on voluntary basis, it shall automatically be insured as provided in section 29 of this chapter.

SECTION 9. IC 27-7-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 35. **This section does not apply to organizations and entities described in section 7(a)(5) through 7(a)(9) of this chapter.** The bureau shall keep a record of all risks referred to members as carrying company, coming within the provisions of section 29 of this chapter, and this record shall be open to any bureau member or its authorized representative. Any member may at any time write as regular business any risk which is carried by any other member as a carrying company, under the provisions of section 29 and such carrying company shall cancel such policy on a pro rata premium basis or thereafter carry such risk in its entirety as regular business.

SECTION 10. IC 27-7-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 37. (a) **This section does not apply to organizations and entities described in section 7(a)(5) through 7(a)(9) of this chapter.**

(b) If, after the issuance of a policy, it develops that an employer is not or ceases to be in good faith entitled to compensation insurance, the carrying company which issued the policy shall have the right, upon authorization of the bureau and the worker's compensation board, to cancel the insurance in accordance with the conditions of the policy.

~~(b)~~ (c) If a policy is cancelled under the circumstances described in subsection ~~(a)~~, (b), the risk shall not be assigned again by the bureau to any of its members as a carrying company until it is fully satisfied that the employer is entitled to insure as a proper rejected risk under this chapter.

~~(c)~~ (d) In the event of a cancellation under this section, the facts justifying such action shall be referred to the worker's compensation board and the department.

SECTION 11. [EFFECTIVE JULY 1, 2004] (a) **As used in this section, "bureau" refers to the worker's compensation rating bureau of Indiana established by IC 27-7-2-3.**

(b) **IC 27-7-2-7, as amended by this act, applies to bureau governing board positions filled after January 1, 2005. A member of the bureau serving on the bureau's governing board on July 1, 2004, shall complete the member's term under the bureau's bylaws in effect on July 1, 2004.**

(c) **The bureau shall revise the bureau's bylaws before January 1, 2005, to incorporate the changes made in IC 27-7-2 by this act.**

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1 (d) This SECTION expires January 1, 2006.

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